

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1597 of 1995

Date of decision:16-10-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India,1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

AJAY RASIKLAL PATEL

Versus

AHMEDABAD TELECOM DISTRICT

Appearance:

MR KA PUJ for Petitioner

MR JD AJMERA for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 16/10/96

ORAL JUDGEMENT

Heard the learned counsel for the parties.

Challenge is made by the petitioner to the bill

of his telephone No.443630 amounting to Rs.1,00,195/-. This Court on 7-3-1995 admitted the special civil application and granted interim relief in terms of para 18(C) of the petition. Para 18 (C) of the petition reads as under:

"18(C) Pending hearing and final disposal of this petition, this Hon'ble Court be pleased to grant stay against the recovery of the amount of Rs.1,00,195/- and/or disconnection of telephone facility on Telephone No.443630, enjoyed and availed of by the Petitioner right from 1988 onwards."

One of the contentions raised by the learned counsel for the petitioner is that all the bills earlier to this disputed bill and after the disputed bill in respect of the aforesaid telephone are in the vicinity of Rs.450 to Rs.500/- and as such it is difficult to believe how for one month this bill of huge amount has been sent to the petitioner who is in private service and has no necessity to use the telephone to the extent of the disputed bill.

2. On the other hand Mr. J.D.Ajmera, learned counsel for the respondents, contended that the bill has been given for the consumption of service and as such no interference should have been made by this court in such matters. It has further been contended by Mr. Ajmera that the petitioner has an alternative remedy available by way of approaching for arbitration under the provisions of Section 7B of the Indian Telegraphs Act. Reliance has been placed in support of this contention by the counsel for the respondents on the decision of this court in the case of Govindbhai Premjibhai Chovatia vs. The Chief G.M., GTC, reported in 1995 (2) GLH 1041.

3. I have given my thoughtful consideration to the contentions raised by the learned counsel for the parties. I find sufficient merits in the contention raised by the learned counsel for the respondents that the petitioner has an alternative adequate and efficacious remedy in the present case by way of approaching for arbitration under the provisions of Section 7B of the Indian Telegraphs Act. The counsel for the petitioner has no objection in case the petitioner is relegated to the aforesaid remedy, but he contended that in case interim relief which has been granted by this court is not ordered to be continued till the proceedings are decided by the Arbitrator, the respondents will disconnect the telephone. The counsel for the petitioner further contended that it is difficult for the

petitioner, an employee in private service, to deposit such huge amount of the disputed bill. I do not consider it proper to give any decision on merits of the contentions raised by the learned counsel for the petitioner. However, the fact remains that interim relief which has been granted by this court in favour of the petitioner on 7-3-1995 is continuing till this date and in case the petitioner is protected till the matter is decided by the Arbitrator by continuing the interim relief, interest of justice will be met.

4. In the result this writ petition fails only on the ground of availability of alternative remedy under the provisions of section 7B of the Indian Telegraphs Act. However, the petitioner, if so desires, may avail of the remedy under section 7B of the Act within a period of one month from the date of receipt of copy of this order. The Arbitrator shall decide the matter within a period of six months from the date of receipt of application from the petitioner and till then the interim relief granted by this court in favour of the petitioner on 7-3-1995 shall continue to operate. Rule discharged. No order as to costs.

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